

Appl. No. : 10/715,994
Filed : November 18, 2003

REMARKS

Claims 1-20 are pending in this application. Claims 1, 2, and 13 have been amended. Support for the amendments is found in the specification and claims as filed.

Allowed Claims

Applicants gratefully acknowledge the Examiner's allowance of Claims 14-20.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-3, 5, and 9-13 have been rejected under 35 U.S.C. §102(b) as anticipated by U.S. 3,536,069 (hereinafter "Gores"). "A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference." *See, e.g., In re Paulsen*, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994). Gores does not disclose every element of Applicants' claims, and therefore cannot be considered as an anticipating reference under 35 U.S.C. § 102(b).

Pending independent claims 1, 2, and 13 recite an apparatus for insertion into the oral cavity comprising a "hinge member" (Claims 1 and 2) or "hinge" (Claim 13) having "an "E" shape." The hinge members 22,22 of Gores have a simple "C" shape. A hinge member having an "E" shape is not disclosed in Gores. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claim Rejection - 35 U.S.C. §103(a)

Claim 6 has been rejected under 35 U.S.C. §103(a) as obvious over Gores in view of U.S. 2,217,439 (hereinafter "Fuller"). Claim 8 has been rejected under 35 U.S.C. §103(a) as obvious over Gores in view of U.S. 3,138,820 (hereinafter "August"). To articulate a *prima facie* case of obviousness under 35 U.S.C. §103(a), the PTO must, *inter alia*, cite prior art that teaches or suggests all the claimed limitations. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974).

Gores in view of Fuller fails to teach or suggest all of the limitations of Claim 6 (which depends from Claim 2 through Claim 5), and Gores in view of August fails to teach or suggest all of the limitations of Claim 8 (which also depends from Claim 2 through Claim 5), namely, an apparatus for insertion into the oral cavity wherein, *inter alia*, "at least one hinge member has an "E" shape." As discussed above, Gores does not disclose a hinge member having an "E" shape.

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Likewise, neither Fuller nor August discloses a hinge member having an "E" shape. Accordingly, Applicants respectfully request that the rejection be withdrawn.

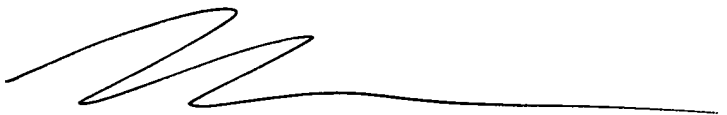
Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns that might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,

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